

Introduced by Senator McGuire

February 18, 2016

An act to amend Sections 369.5 and 739.5 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1220, as introduced, McGuire. Foster care: psychotropic medication.

Under existing law, only a juvenile court judicial officer may make orders regarding the administration of psychotropic medications for a dependent child or a ward of the court who has been removed from the physical custody of his or her parent, as specified. Existing law requires court authorization for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's or ward's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.

This bill would instead require the officer to take one of those actions within 5 court days.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 369.5 of the Welfare and Institutions
- 2 Code is amended to read:

1 369.5. (a) (1) If a child is adjudged a dependent child of the
2 court under Section 300 and the child has been removed from the
3 physical custody of the parent under Section 361, only a juvenile
4 court judicial officer shall have authority to make orders regarding
5 the administration of psychotropic medications for that child. The
6 juvenile court may issue a specific order delegating this authority
7 to a parent upon making findings on the record that the parent
8 poses no danger to the child and has the capacity to authorize
9 psychotropic medications. Court authorization for the
10 administration of psychotropic medication shall be based on a
11 request from a physician, indicating the reasons for the request, a
12 description of the child's diagnosis and behavior, the expected
13 results of the medication, and a description of any side effects of
14 the medication.

15 (2) (A) On or before July 1, 2016, the Judicial Council shall
16 amend and adopt rules of court and develop appropriate forms for
17 the implementation of this section, in consultation with the State
18 Department of Social Services, the State Department of Health
19 Care Services, and stakeholders, including, but not limited to, the
20 County Welfare Directors Association of California, the County
21 Behavioral Health Directors Association of California, the Chief
22 Probation Officers of California, associations representing current
23 and former foster children, caregivers, and children's attorneys.
24 This effort shall be undertaken in coordination with the updates
25 required under paragraph (2) of subdivision (a) of Section 739.5.

26 (B) The rules of court and forms developed pursuant to
27 subparagraph (A) shall address all of the following:

28 (i) The child and his or her caregiver and court-appointed special
29 advocate, if any, have an opportunity to provide input on the
30 medications being prescribed.

31 (ii) Information regarding the child's overall mental health
32 assessment and treatment plan is provided to the court.

33 (iii) Information regarding the rationale for the proposed
34 medication, provided in the context of past and current treatment
35 efforts, is provided to the court. This information shall include,
36 but not be limited to, information on other pharmacological and
37 nonpharmacological treatments that have been utilized and the
38 child's response to those treatments, a discussion of symptoms not
39 alleviated or ameliorated by other current or past treatment efforts,

1 and an explanation of how the psychotropic medication being
2 prescribed is expected to improve the child's symptoms.

3 (iv) Guidance is provided to the court on how to evaluate the
4 request for authorization, including how to proceed if information,
5 otherwise required to be included in a request for authorization
6 under this section, is not included in a request for authorization
7 submitted to the court.

8 (C) The rules of court and forms developed pursuant to
9 subparagraph (A) shall include a process for periodic oversight by
10 the court of orders regarding the administration of psychotropic
11 medications that includes the caregiver's and child's observations
12 regarding the effectiveness of the medication and side effects,
13 information on medication management appointments and other
14 followup appointments with medical practitioners, and information
15 on the delivery of other mental health treatments that are a part of
16 the child's overall treatment plan. The periodic oversight shall be
17 facilitated by the county social worker, public health nurse, or
18 other appropriate county staff. This oversight process shall be
19 conducted in conjunction with other regularly scheduled court
20 hearings and reports provided to the court by the county child
21 welfare agency.

22 (b) (1) In counties in which the county child welfare agency
23 completes the request for authorization for the administration of
24 psychotropic medication, the agency is encouraged to complete
25 the request within three business days of receipt from the physician
26 of the information necessary to fully complete the request.

27 (2) Nothing in this subdivision is intended to change current
28 local practice or local court rules with respect to the preparation
29 and submission of requests for authorization for the administration
30 of psychotropic medication.

31 (c) (1) Within ~~seven~~ *five* court days from receipt by the court
32 of a completed request, the juvenile court judicial officer shall
33 either approve or deny in writing a request for authorization for
34 the administration of psychotropic medication to the child, or shall,
35 upon a request by the parent, the legal guardian, or the child's
36 attorney, or upon its own motion, set the matter for hearing.

37 (2) Notwithstanding Section 827 or any other law, upon the
38 approval or denial by the juvenile court judicial officer of a request
39 for authorization for the administration of psychotropic medication,
40 the county child welfare agency or other person or entity who

1 submitted the request shall provide a copy of the court order
2 approving or denying the request to the child's caregiver.

3 (d) Psychotropic medication or psychotropic drugs are those
4 medications administered for the purpose of affecting the central
5 nervous system to treat psychiatric disorders or illnesses. These
6 medications include, but are not limited to, anxiolytic agents,
7 antidepressants, mood stabilizers, antipsychotic medications,
8 anti-Parkinson agents, hypnotics, medications for dementia, and
9 psychostimulants.

10 (e) Nothing in this section is intended to supersede local court
11 rules regarding a minor's right to participate in mental health
12 decisions.

13 (f) This section does not apply to nonminor dependents, as
14 defined in subdivision (v) of Section 11400.

15 SEC. 2. Section 739.5 of the Welfare and Institutions Code is
16 amended to read:

17 739.5. (a) (1) If a minor who has been adjudged a ward of the
18 court under Section 601 or 602 is removed from the physical
19 custody of the parent under Section 726 and placed into foster
20 care, as defined in Section 727.4, only a juvenile court judicial
21 officer shall have authority to make orders regarding the
22 administration of psychotropic medications for that minor. The
23 juvenile court may issue a specific order delegating this authority
24 to a parent upon making findings on the record that the parent
25 poses no danger to the minor and has the capacity to authorize
26 psychotropic medications. Court authorization for the
27 administration of psychotropic medication shall be based on a
28 request from a physician, indicating the reasons for the request, a
29 description of the minor's diagnosis and behavior, the expected
30 results of the medication, and a description of any side effects of
31 the medication.

32 (2) (A) On or before July 1, 2016, the Judicial Council shall
33 amend and adopt rules of court and develop appropriate forms for
34 the implementation of this section, in consultation with the State
35 Department of Social Services, the State Department of Health
36 Care Services, and stakeholders, including, but not limited to, the
37 County Welfare Directors Association of California, the County
38 Behavioral Health Directors Association of California, the Chief
39 Probation Officers of California, associations representing current
40 and former foster children, caregivers, and minor's attorneys. This

1 effort shall be undertaken in coordination with the updates required
2 under paragraph (2) of subdivision (a) of Section 369.5.

3 (B) The rules of court and forms developed pursuant to
4 subparagraph (A) shall address all of the following:

5 (i) The minor and his or her caregiver and court-appointed
6 special advocate, if any, have an opportunity to provide input on
7 the medications being prescribed.

8 (ii) Information regarding the minor's overall mental health
9 assessment and treatment plan is provided to the court.

10 (iii) Information regarding the rationale for the proposed
11 medication, provided in the context of past and current treatment
12 efforts, is provided to the court. This information shall include,
13 but not be limited to, information on other pharmacological and
14 nonpharmacological treatments that have been utilized and the
15 minor's response to those treatments, a discussion of symptoms
16 not alleviated or ameliorated by other current or past treatment
17 efforts, and an explanation of how the psychotropic medication
18 being prescribed is expected to improve the minor's symptoms.

19 (iv) Guidance is provided to the court on how to evaluate the
20 request for authorization, including how to proceed if information,
21 otherwise required to be included in a request for authorization
22 under this section, is not included in a request for authorization
23 submitted to the court.

24 (C) The rules of court and forms developed pursuant to
25 subparagraph (A) shall include a process for periodic oversight by
26 the court of orders regarding the administration of psychotropic
27 medications that includes the caregiver's and minor's observations
28 regarding the effectiveness of the medication and side effects,
29 information on medication management appointments and other
30 followup appointments with medical practitioners, and information
31 on the delivery of other mental health treatments that are a part of
32 the minor's overall treatment plan. This oversight process shall be
33 conducted in conjunction with other regularly scheduled court
34 hearings and reports provided to the court by the county probation
35 agency.

36 (b) (1) The agency that completes the request for authorization
37 for the administration of psychotropic medication is encouraged
38 to complete the request within three business days of receipt from
39 the physician of the information necessary to fully complete the
40 request.

1 (2) Nothing in this subdivision is intended to change current
2 local practice or local court rules with respect to the preparation
3 and submission of requests for authorization for the administration
4 of psychotropic medication.

5 (c) (1) Within ~~seven~~ *five* court days from receipt by the court
6 of a completed request, the juvenile court judicial officer shall
7 either approve or deny in writing a request for authorization for
8 the administration of psychotropic medication to the minor, or
9 shall, upon a request by the parent, the legal guardian, or the
10 minor's attorney, or upon its own motion, set the matter for hearing.

11 (2) Notwithstanding Section 827 or any other law, upon the
12 approval or denial by the juvenile court judicial officer of a request
13 for authorization for the administration of psychotropic medication,
14 the county probation agency or other person or entity who
15 submitted the request shall provide a copy of the court order
16 approving or denying the request to the minor's caregiver.

17 (d) Psychotropic medication or psychotropic drugs are those
18 medications administered for the purpose of affecting the central
19 nervous system to treat psychiatric disorders or illnesses. These
20 medications include, but are not limited to, anxiolytic agents,
21 antidepressants, mood stabilizers, antipsychotic medications,
22 anti-Parkinson agents, hypnotics, medications for dementia, and
23 psychostimulants.

24 (e) Nothing in this section is intended to supersede local court
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27 (f) This section does not apply to nonminor dependents, as
28 defined in subdivision (v) of Section 11400.